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TOM LYTHGOE, CHAIR

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KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
September 5, 2006**

Present: Commissioners Lythgoe, Notbohm and Weber; Marilyn McCauley, Fair Board; Bonnie Ramey, Clerk and Recorder; Marilyn Craft, Clerk of Court; Gretchen George, Health Department; Bill Lloyd and Jeremiah Theys, Great West Engineering; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Wally Hustad, Celia Wolny, Shane Coleman, Ron and Yvonne Pearson, Sam Samson, Sam Stewart, Gary Laufer

MINUTES

Commissioner Weber moved to approve the minutes of July 18. Commissioner Notbohm seconded. The motion carried.

Commissioner Lythgoe moved to approve the minutes of August 22. Commissioner Weber seconded. The motion carried.

REPORTS

Receipt of Clerk and Recorder fees for August.

CALENDAR REVIEW

9/06 Museum Board - 7:00
9/08 Canvas city election - 10:30
9/12 JLDC annual meeting - 6:00

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

OPEN AND AWARD BIDS FOR JEFFERSON COUNTY FAIRGROUNDS ROPING CHUTE
No bids were received. Marilyn McCauley, fair board, stated that the chute will be torn down and discarded.

PUBLIC HEARING - PRELIMINARY BUDGET HEARING

Commissioner Lythgoe called the hearing to order, and stated that the budget documents are September 5, 2006 minutes.wpd

available for public viewing on the county's website and on the counter in the Clerk and Recorder's office. The Commission has met with all of the Department Heads and reviewed the budgets. The information has been turned over to Bonnie, and she has come up with bottom line numbers. They received the mill value at the beginning of August, and it was up from last year. All of the departments were pretty tight-fisted with their budgets, with the road budget really the only budget that went up in a significant way, with the exception of those departments with fuel attached - Solid Waste, Road and law enforcement. The Road Department had some significant projects early in the summer that increased their budget. The budget was a little out of balance when they first looked at it. Most reserves were dropped from 25% to 22%, which still leaves a comfortable reserve. As of June 30, 2006, PILT was at \$1,234,349. Due to some departments that needed to be partially funded by PILT, it is currently at \$530,000. The PILT payment will come to the County in May 2007, which will bring the PILT balance back up to \$1,100,000. PILT funds in the following amounts were placed in the following accounts: General Fund - \$92,103; Road Department - \$433,032; Fair - \$58,000; Public Safety - \$99,290; Central Shop - \$92,664. Commissioner Lythgoe stated that he feels the County is in pretty good shape. The mill value is \$20,940, and they anticipate the mill value to be about the same next year. Things are financially tight, but we are in pretty good shape.

Jan Anderson asked if there are personnel increases anywhere in the budget and if so, where. Bonnie stated that there are no more personnel than on June 30. Commissioner Lythgoe stated that personnel is up across the board due to COLA and step increases. He noted that they do have a request from Extension to increase Jill to full time, which is different from what the budget reflects at this time. This was discussed, but he can't remember the outcome and his notes to Bonnie don't reflect if they made a decision. Commissioner Notbohm stated that they did discuss this, but they made no decision. The problem is that part of her salary is paid by the Weed Board. He has spoken to Bonnie about the costs, which would be about \$8,200.00. Because of the money they have increased for economic development and JLDC, he is not inclined to approve this at this time. Commissioner Lythgoe noted that Commissioner Weber and the Personnel Officer did go and meeting with the extension agents and the office personnel.

Commissioner Weber stated that the major concerns are that Jill will be working and someone will come into the office requesting chemicals. She will need to stop what she is doing to fill the request. This disrupts the office, and sometimes she is the only one there. Cameron is also not getting the support staff hours that he needs. It is almost impossible to find a way to provide support staff and have someone who is leaving all the time. Commissioner Lythgoe asked Commissioner Weber how he felt after the meeting. Commissioner Weber stated that he is in support of the change.

Marga Lincoln asked there were any program cuts this year. It was stated that there haven't been. She then asked the amount of increase in the bottom line of the general fund. Bonnie stated that this year \$1,791,777 was requested; last year's requested amount was \$1,779,172.

Hearing no more comments, Commissioner Lythgoe stated that he would entertain a motion. Bonnie stated that whatever motion is made, the money is going to have to come from PILT. Commissioner Lythgoe asked if metal mines monies could be used. Bonnie stated that it is questionable, as this is the county agent fund.

Commissioner Weber moved to increase the extension administrative assistant position to full time, 40 hours-per-week, dropping 10 hours-per-week from weed, and to fund through PILT, for a total of \$11,302.55 extra. Commissioner Lythgoe seconded. Commissioner Notbohm asked if any request had been made to MSU or Madison County to help offset the expansion of the program. Commissioner Lythgoe stated that they will not help with this. Commissioner Notbohm stated that because of the way the budget came out, he would hate to see PILT taken down further. He feels that the county is spending enough on the extension program. The motion carried, with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

PUBLIC HEARING - SOUTH HILLS ROAD, SOUTH HILLS DRIVE, HOLMES GULCH RID/RMD

Commissioner Lythgoe called the public hearing to order. He stated that they have gone through the protest period. There are 234 parcels within the boundaries of the RID/RMD, and they had to get 50% plus 1 protest to kill the RID; they received a total of 33 protests. The county now has the go-ahead to form the RID/RMD.

Sam Stewart stated that his residence is on Martinez Gulch. He protested because Martinez Gulch is not considered a part of the pavement project. He stated that he thought the RID would be assessed to those who actually live on the road. Also, he did an informal study where he watched the traffic on the road, and about fifty percent of the people on the road were not residents. When the road is paved, it will be used even more. He asked what was done prior to this to get funding, either from the state or the federal government. Commissioner Lythgoe stated that Ron Pearson brought to the Commission's attention the ability to trade a road with MDT. The Commission wrote a letter of request to MDT, and received a response the previous week that it would not happen. Commissioner Lythgoe stated that he also sent the entire packet to Senator Baucus with a request for funding. Commissioner Weber stated that he also hand-delivered the information to Senator Burns. Sam Stewart asked if the road could be turned over to the state after it is paved. Commissioner Lythgoe stated that every indication he has gotten from MDT, is that this is not going to happen. Sam stated that they need to keep feet to the fire. Commissioner Lythgoe stated that he will keep pursuing this; it is to our advantage for the state to take over.

Ron Pearson presented his written comments and read them into the record (on file in the Clerk and Recorder's office).

Gary Laufer stated that he agrees with the last two speakers. He questioned if a traffic study has been done and counted the numbers of non-resident drivers. The county could do this much more cheaply on their own. He stated that he is in the district, but does not front any of the affected roads. Commissioner Weber stated that traffic studies have been done, but not to delineate resident versus non-resident traffic. They did project growth in the area, which is one reason they decided to go to a hard surface. The majority of the residents want this. Commissioner Lythgoe stated that this is an important point. The silent majority has spoken loud and clear. They have had a lot of meetings; some during the day and a couple at night which had good attendance. There is a significant majority who want to do this. This is not the

Jefferson County Commission shoving the RID down anyone's throat.

Sam Stewart stated that he talked to several people who didn't protest because they wanted to be good neighbors.

Ron Pearson asked if something was sent out asking who wanted this, how many the Commission thinks they would get back. Commissioner Lythgoe stated that the statute is very specific about how to do this. After much discussion, it was decided that it would confuse the issue to do this. Ron noted that it is human nature not to respond. Commissioner Lythgoe countered that Ron made it very easy for people to respond, providing all of the information needed, so that people had two opportunities to respond. He noted that they received protests on both forms. 200 people decided not to respond. Commissioner Notbohm stated that, in regards to public meetings, he didn't hear Ron protest. Ron stated that this is because it was a done deal by that time and there was no point. However, he couldn't stomach sitting at home and saying nothing.

Commissioner Notbohm stated that the County is maxed out on the budget and unable to expand the road department. This is the only way to fund improvements. Gary noted that they pay county road taxes. He would like to see the road done with the taxes; that is what they are for. He stated that the County is asking them to pave a road that is mostly driven by people who don't live there. He also agrees that this was a done deal. Commissioner Lythgoe asked how this was a done deal; it wasn't over until Friday.

Wally Hustad stated that if Jefferson County has such an issue with roads that they are asking a handful of people to pay for roads that others use, impact fees are needed. This community is the fastest growing in the state; impact fees are needed to all developers. He would recommend that the Commission take a serious look at this; developers should be paying impact fees. If these are not in place, they need to discuss how to put in place. Commissioner Weber stated that they have struggled with every part of what has been said. The legislature has dealt with this in a way that makes it difficult to charge impact fees. They do require that developers upgrade roads associated with the subdivision, but the legislature does not allow impact fees. Wally stated that, as a developer, he is willing to add a fee to each lot, rather than complicate things. Commissioners Lythgoe and Weber stated that this is not allowed. Wally noted that the entire community is ultimately affected by this, and stated that they need to get developers together. Commissioner Weber stated that they would love to, but they can't. They have looked hard at this, and suggested that Wally get with his lawyer to explain all of this. They do have community-minded developers, but don't have the mechanism to do anything. Wally stated that he is being required to improve state roads as a part of his approval, and asked what the difference is. Commissioner Lythgoe stated that another option is to go out for a mill increase specific for roads. A few years ago they held a lot of meetings throughout the county, and they couldn't get the mill increased. In fact, they have never passed a mill increase for roads in the history of the county. Commissioner Notbohm added that all they were asking for was equipment and materials to help the program.

Hearing no further comment, Commissioner Lythgoe closed the public hearing.

RESOLUTION 28-2006 FORMATION OF SOUTH HILLS RID

A resolution providing for the formation of the South Hills area RID was presented.

Commissioner Weber moved to adopt. Commissioner Lythgoe seconded. The motion carried.

SHANE COLEMAN - REQUEST FOR VARIANCE

Shane stated that his client, Wally Hustad, is trying to make his subdivision work with a single point of ingress-egress. They have DOT approval for density, and they have submitted a plan with the conceptual design. Commissioner Notbohm stated that he thinks that they received an answer from the County Attorney. They are here to decide on a variance for ingress-egress, but the developer would still have to apply for other variances as the need arises. Shane stated that he understands this. They are asking today for a variance to have one point of ingress-egress rather than two. Commissioner Lythgoe asked if this would be onto Sunnyside. Shane stated that it would be. Commissioner Lythgoe asked for clarification that they are asking for one point of ingress-egress onto Sunnyside, not two. Shane stated that this is correct.

Commissioner Weber moved to allow for a variance for one point of ingress-egress, noting that this is the only item they are dealing with at this time. Commissioner Lythgoe seconded. Commissioner Weber noted that this is allowable within the road standards. Commissioner Notbohm stated that the roads still need to be in compliance with county standards. Because of the size of the subdivision, he does have some misgivings. He hopes that something can be worked out in the future for another access. The motion carried.

REAFFIRM JEFFERSON COUNTY'S ACCEPTANCE OF SOUTH HILLS ROAD AS A COUNTY ROAD

Commissioner Lythgoe stated that the Commission passed a resolution in 2003 to accept South Hills Road as a county road for law enforcement purposes. The reason it was brought forward at that time was because Ron Pearson was concerned with the speed people were driving the road. They felt that it was appropriate at that time to accept the road as a county road for law enforcement purposes only. After this was done, the County Attorney informed the Commission that they didn't just accept for law enforcement, but as a full-fledged county road. Commissioner Notbohm stated that, due to the way it was written and the intent at that time, he feels they need to re-do the resolution. Commissioner Lythgoe stated that he agrees. He will have the County Attorney draft a new resolution.

DISCUSS AND DECIDE ON WHETHER TO CONTRACT WITH OR EMPLOY A PERSON TO DEAL WITH FOREST SERVICE AND BLM ISSUES AS RELATED TO ROADS AND TO ASSIST ED HANDL AS RELATED TO MINE REGULATIONS AND LEGISLATION

Commissioner Lythgoe stated that he wanted to get this on the resolution. He thinks that they have a huge job ahead regarding the Forest Service, BLM and state roads. He noted all of the study involved to determine whose road, who has the ability to open or close. They need a person to do this research and also to help Ed Handl with the mine related work he is doing. This is very important because of the high profile. By his definition, this is economic development, and he feels that metal mines money can be used to pay for this. He feels that this is entirely appropriate to get a quality person. After talking to Matt, we can contract with someone, and should be able to find someone qualified for \$28-30/hour. Commissioner Weber

stated that he feels they need to add DNRC, FWP and DEQ; they need to include all of the departments.

Celia stated that it seems like two different issues. Commissioner Lythgoe stated that they are separate, but connected. If the Forest Service is allowed to close all the roads, future mining will not happen. Celia asked if this person would be hired to work with the Forest Service and BLM. Commissioner Lythgoe stated that this person would work for the Commission as it relates to these issues. They have tried to work with the Forest Service, but they aren't getting anywhere. This person will try to work with, but he may need to go elsewhere. Celia asked if metal mines money is earmarked for economic development. Commissioner Lythgoe stated that it can be used for economic development or planning, and he feels that this covers both. Commissioner Weber stated that they are trying to ensure access for all; forestry, mining, tourism and recreation opportunities. He noted that there are a lot of economic development ties that go along with roads. Celia stated that she disagrees with what they are doing; she feels that it is a waste of county money.

Commissioner Lythgoe stated that the Commission has received two letters of protest, which Commissioner Weber read. (Letters on file in Clerk and Recorder's office.) Commissioner Weber stated that he thinks it is important to note a couple things that the letters brought up. "Stick to normal county business"; roads are a major point of county business. The Commission has the ability to designate roads as non-maintained county roads. RS2477 is certainly one mechanism that designates how this is done.

Commissioner Lythgoe moved to develop a contract. Commissioner Notbohm asked if they need to advertise. Commissioner Lythgoe stated that he spoke with Matt. They can do a RFP, but it is totally within our right to contract with someone. He has a person in mind, who he would like to bring before the Commission. He has significant mining experience, significant experience as it relates to research, very much a problem solver and is very technical. He thinks this person would be a good candidate. Matt says this is entirely appropriate.

Commissioner Lythgoe moved to enter into a contract with a person or persons to handle public right-of-way issues as it relates to Jefferson County's rights and responsibilities regarding those rights-of-way; this person would also assist Atl-atl in developing a strategy for the legislature to deal with mining regulations in Montana and DEQ as regards to the permitting process, more specifically the time it takes to get things done with DEQ regarding mine permitting. Commissioner Weber seconded. The motion carried.

Sam Samson asked if the Commission has a map of roads that they intend to take jurisdiction over. Commissioner Weber stated that pursuant to 60-1-201, they are going to be looking at all of them. Some were built with Forest Service funds and they are their roads. If a road goes into a creek bottom and environmentalists challenge, they can work with the Forest Service. Yes, there are maps, but they don't name specific roads at this time. The strongest focus at this point is the Clancy-Unionville travel plan. Commissioner Notbohm noted that the Forest Service has taken everything off of the maps except for major roads or closures; not all of the roads are shown on the maps.

Sam stated that it is hard to define some roads. Each road is endlessly litigated. He understands why the Commission wants to do this, but the implications are tremendous; maintenance, signage, culverts, etc. Commissioner Weber stated that if they do something on their land, such as a logging sale, it is their responsibility. Commissioner Lythgoe stated that he is not suggesting, if in fact they are successful in all the roads being designated as public rights-of-way, that all will be opened up. There may be a really good reason for a road not to be opened up, but it is our responsibility, not the Forest Service's, to make that decision. All road closures that the Forest Service has done never came to the Commission for input. Sam stated that they did, through their procedure. Commissioner Lythgoe countered that they haven't. In the Clancy-Unionville area, there is debris on the road almost as high as the ceiling for 30 yards. Commissioner Weber stated that the Commission's point, these roads being public highways, need to go through the petition process.

Sam stated that the County has a list of roads that are considered county roads, and asked how they will add more. Commission Weber answered under RS2477. Many of these roads were in existence before the Forest Service came into being. He stated that it is the Commission's responsibility to manage these roads. Sam stated that this is not a simplistic endeavor; they almost need to take one road at a time. Commissioner Notbohm stated that the attitude of the Forest Service is that they can do whatever they please. They have totally obliterated roads that are older than he and Sam put together. They are our roads. The public process has never been gone through to close the roads; these were illegal closures. Sam reiterated that the Forest Service went through their process. He personally attended a lot of meetings, RAC groups, etc.

Commissioner Weber stated to go strictly with the law, his interpretation is that once a public right-of-way is created, it is up to the County to manage, and it is our responsibility to be involved. Sam stated that until they have a map, this is just a philosophical debate. Commissioner Lythgoe stated that they have sat down with the Forest Service and maps and had discussions. After the initial conversation, they thought they were going to make progress and compromise. He noted that there are foresters out there, when you get them by themselves, felt that what was done in the Clancy-Unionville area is wrong.

Sam stated that what it boils down to is that he doesn't want three people with no knowledge of what is needed to make these decisions. He would rather have it grind through the federal process. Commissioner Lythgoe stated that he agrees; this is why they wanted to work with the Forest Service, as they have the expertise. Hopefully, they still can do this.

Commissioner Notbohm stated, to give one last example of the problems with these blockages. He has been contacted by a person with grazing rights, but the blockage doesn't allow her to get up to her cattle or to maintain the fences, which is required in the lease. He spoke to the Forest Service about this, and they told him they would fix the access. After this, they went up and cut green trees and blocked the roads further. This is the attitude that he is speaking about. Sam asked where the Commission wants to go with this. Commissioner Notbohm stated that they hope to work with the Forest Service. Commissioner Lythgoe stated that he thinks one thing they are going to do is open some roads and see what happens. They will take down some gates

and remove some debris, but he is not sure where they are going.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER